1944.

File No. DEssential Articles Restri Acqn. etc order 44

Legal Department-

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Subject:—

opinions under the Essential Articles Restricted Acquisition and possession order Act, 1943

Pt 2

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File No. 0 Essential Articles Restri. Acqn order/44

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C O N T E N T S.

Legal Department File No. O. Essential Articles.

Restri. Acqn. etc. Order 1944.

Sr.No.	R.I. / O.No.	Subject.	Pages.
1	8441 30-11-44.	Opinions under the Essential Articles Restricted Acquisition etc. Order, 1943. Clause 3(2) Proviso: Question whether an absentee landlord, a khatedar and a cultivator come within the purview of the ———	1-2.

SR/9.7.

Office of the R.L.A.

The question referred to the R.L.A. for opinion is whether all or any of the following persons come within the purview of the proviso to clause 3(2) of the Essential Articles Restricted Acquisition and Possession Order, 1943:-

(i) An absentee landlord e.g. a person owning agricultural land in Bombay Suburban District but residing in Bombay City who possesses essential articles grown on his land and whose stock of essential articles is kept in the City of Bombay or Bombay Suburban District.

(ii) A khatdar residing in the rationed area where his land is situated and possessing stock of essential articles grown on his land.

(iii) A cultivator who possesses any stock of essential article grown by him.

2. Sub-clause (2) of clause 3 of the Essential Articles Restricted Acquisition and Possession Order, 1943, lays down certain restrictions with regard to the acquisition of essential articles. The proviso thereto provides that those restrictions shall not apply to the acquisition in the ordinary course of his business of any essential article by a person carrying on the business of a producer, dealer, manufacturer, carrier or warehouse-man. "Business means an affairs requiring attention and care; that which occupies one's time, attention and labour as his chief concern; that which one does for one's livelihood; occupation; mercantile pursuits and the business of agriculture." (See Iyer's Law Lexicon, page 164). A person who cultivates personally, that is to say cultivates by his own labour or by the labour of any member of his family or by servants or hired labour under his personal supervision or the personal supervision of any member of his family is one who carries on the business of a producer because of the attention and care he devotes to cultivation as his chief

chief concern. A landlord is one who lets out land on cash rent or crop share. Therefore an absentee landlord residing in Bombay cannot be deemed to be producer in the strict sense of the term so as to come within the protection of the proviso to clause 3(2) of the Order.

3. A khatedar as normally understood is one who owns land. If he cultivates the land personally or through his tenants he would be deemed to carrying on the business of a producer within the meaning of the proviso and whether he resides in the village in which his land is situate or elsewhere will not materially effect his position as a producer. It is, however, difficult to express any definite opinion on a hypothetical question. Each case has to be determined on its own facts.

4. A cultivator clearly comes within the purview of the proviso.

Sd/- P.N.MOOS.
30/11/44

Remembrancer of Legal Affairs.

U.R. to the Controller of Rationing, No. 8441

dated the 30th November 1944.

SMT/9.7.